



CITY OF SAN ANTONIO

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City Auditor
San Antonio, Texas

RE: Management's Corrective Action Plan for the Housing and Neighborhood Services Department Code Compliance Division Audit

City Management and the Housing and Neighborhood Services Department have reviewed the audit report and have developed Corrective Action Plans below corresponding to report recommendations.

Observations, Recommendations, Management Responses and Action Plans

Section A - Follow-up of DMG-MAXIMUS, LTD Recommendations

A.1. Increased Complaints and Re-inspection Activity (Audit Report Page 5)

Observation: The City's code enforcement resources have become increasingly strained by increases in complaints and re-inspection activity.

Recommendation: CCD should only perform re-inspections to validate a violation correction or abatement by a City contractor. State law requires giving notice with a 10-day waiting period before further action is taken by the City. The burden of proof should then be shifted to the property owner to show that the violation has been corrected. In the meantime, the adjudication or abatement process should begin during the waiting period to expedite the process. Observation A.3 below further discusses adjudication and assessment of fines and administrative fees in the absence of voluntary compliance.

Management's Response: Partially Accept
Responsible Person/Group: Code Enforcement Supervisors

Management Action plan:

1. There are many codes enforced by the Code Compliance Division. We will compile the list and better define the enforcement guidelines for Officers that will direct immediate citation or case filing when possible. *Completion date: April 2007*
2. We will continue, on an on-going basis, to review current ordinances and proposed amendments that will shorten the compliance or abatement time. *Completion date: This will be an on-going process.*
3. Ensure the Standard Operating Procedures include standards that limit the number of re-inspections. *Completion date: March 2007*

Reason for partial acceptance:

The enforcement procedure does to some extent follow the recommendation suggested above. There are violations in which we do start the adjudication process immediately upon verification of violation by filing a case or issuing a citation. These cases involve repeat violators and administrative type of violations (i.e. parking violations and, now, garage sales). The abatement process also commences immediately for vacant lots within 1000 feet of a school or under annual notice as provided by State law.

Shifting the responsibility for all violations from the Code Enforcement Officer (CEO) to the violator in order to decrease the number of re-inspections will also create a larger burden for prosecutors, judges, administrative hearing officers and courtroom waiting time for the CEO. Better managing the CEO's follow-up work to ensure "the next step" in the compliance or enforcement process is taken would yield less reinspections.

In situation involving criminal cases, the Investigator must obtain with certainty, information about the violator and be able to identify him/her in the courtroom. Eight of ten violators that are mailed a notice comply without prosecution, thus making it unnecessary for the code officer to take the time to track down the information for every case. Not to mention the time saved in not preparing a court or abatement case (as recommended above) for all of those that voluntarily comply.

As suggested in the recommendation, if by burden of proof we are talking about requiring violators to prove their innocence or risk the filing of a court case, this is not possible. In criminal prosecutions, the burden of proof is placed upon the State (and it's witness – the code officer). If we rely on the violator's statement of compliance without field verification by the CEO this could result in a number of violations going uncorrected. Violators have an incentive to falsify their compliance with the aim of avoiding a fine or the inconvenience of a court hearing. Many times, violators differ with the code officer on the standards for compliance or even if they were ever in violation to begin with.

While "Zero Tolerance" for code violators is being promoted in this recommendation, it is not always the most effective and efficient method to produce compliance.

A.2 Complaint Response and Closure Time (Audit Report Page 5)

Observation: While CCD response times have shown steady improvement, overall code violation closure times could be better.

Recommendation: CCD Management should continue to develop policies and procedures to ensure that 100% of first investigations are performed within 10 days of initial complaint, as prescribed by the Department's Service Level Agreements (SLAs). As discussed in Observation A.3, violations adjudicated in Municipal Courts can involve lengthy court proceedings, extending the amount of time the violation exists.

Management Response: Accept and already implemented

Management Action Plan:

1. Provide specific "across the board" guidelines to Code Enforcement Supervisors to ensure they are addressing their subordinates when they are non-compliant with Standard Operating Procedure 201. *Completion Date: March 2007*
2. Realize certain exceptions for this guideline as it relates to assignment to special Sweep projects, unusual labor intensive cases, long periods of leave of absence and manpower shortages due to vacancies.

Code Compliance Standard Operating Procedure 201 entitled "Duties and Responsibilities" states under 201.02 B (1) "Complaints received through the Code Compliance ECCO System shall be investigated and completed within (7) business days." The effective date of the policy is March 1, 2005 and is reviewed annually.

A.3 Adjudication Processes and Sanctions (Audit Report Page 7)

Observation: San Antonio's code enforcement program could benefit from more efficient adjudication processes and more effective sanctions.

1. The current judicial adjudication process is slow and does not promote code compliance.
2. Violation fines and other sanctions are rarely imposed on violators.
3. Late payment penalties and code enforcement cost recovery practices are inadequate.
4. Current codes are difficult to understand which can foster inconsistent application.

Recommendation:

1. Use administrative hearings for code violations with these suggested processes:

- Voluntary compliance (with no fine)
- Direct Payment (fine only)
- Informal hearing before hearing officer (at the discretion of the Code officer)
- Formal hearing (fine plus hearing officer and hearing board costs)
- Municipal court (fine plus hearing officer, hearing board and court costs)

An administrative adjudication process will accelerate processing times; promote greater compliance and free CCD staff from preparing cases for Municipal Courts. Chapter 54.044 of the Local Government Code of Texas as amended in 2001, allows for this alternative procedure for administrative adjudication, and does not require the CCD investigator who issued the citation to attend the hearing. Currently, investigators spend a lot of time preparing cases for court and

appearing at arraignment hearings and other court proceedings. De-criminalizing code violations disables the use of arrest warrants which are currently in place. However, issuing warrants has not historically resulted in the increased collection of fines, so the advantage of this procedure is not apparent.

2. Restructure fine, fee, and cost schedules to include these features:

- Require immediate ticket and fine for code violations, but enable CCD and/or administrative hearing officers to defer fines under certain circumstances.
 - Impose mandatory fines for violations not resolved administratively.
 - Adopt progressive fine schedules calibrated to the severity of the offense, including mandatory minimum and maximum fines.
 - Adopt mandatory progressive fine schedules for repeat offenders.
 - Adopt progressive late payment penalties.
 - Adopt a mandatory, progressive cost schedule for violations referred to administrative hearing officers, administrative hearing board and municipal court.
 - Obtain clarification on sanctions available for chronic front and side-yard parking violations. Research the possibility of “booting” vehicles after the owners have not chosen voluntary compliance. Perhaps notification of pending “booting” will increase voluntary compliance and reduce future violations.
3. Eliminate the 10-day waiting period upon original inspection and notification by immediately scheduling hearings within 30 days of initial inspection unless the violator provides documentation of compliance.
 4. Establish an annual regulatory review process to monitor the effectiveness of ordinances, using community input on ordinance revisions.

Management Response: Partially Accept

Action plan:

Administrative Hearings cannot be used for all code violations because the Local Government Code limits administrative adjudication to certain categories of ordinances; however, management has been and continues to review the codes with Legal staff that may be better adjudicated administratively.

A.4 Proactive Code Enforcement and Chronic Violators (Audit Report Page 10)

Observation: CCD's traditional reliance on reactive code enforcement techniques may actually contribute to rising complaint volumes.

Recommendation: The Housing and Neighborhood Services Department should focus its proactive code enforcement on areas with high concentrations of code violations and chronic violators. Furthermore, a combination of targeted community education and tough sanctions should be required to reduce chronic code violations. The DMG-MAXIMUS Final Report offered several recommendations to prevent chronic compliance problems. These are summarized below.

1. CCD and Neighborhood Action Departments (now Housing and Neighborhood Services) should develop and implement specialized prevention programs for target customer groups and high-violation property types. It could design an apartment inspection program to help educate landlords on code violations. The City of Dallas has implemented this type of program and designated about 40 full time investigators to perform about 1,200 inspections annually.
2. Housing and Neighborhood Services should investigate the feasibility and legality of an ordinance requiring property owners to conduct inspections and correct code violations as a condition of certain property transfers and improvements.
3. The City should explore ways to strengthen the linkage between code enforcement efforts and the City's community revitalization programs. It should develop and fund a program to help impoverished violators pay for, or obtain at reduced cost, violation correction services and supplies.

Management Response: Partially Accept (current programs already implemented)

Management Action Plan:

1. An inspection program for rental properties is currently being explored. *Completion date: May 2007*
2. The suggestion to codify inspections requirements before transfer of property will be explored. We have seen however that there are many investors that are buying property “as is” to make improvements themselves and “flip the house” after purchase. *Completion date: May 2007*
3. The merging of the departments of Code Compliance and Neighborhood Action Department has facilitated the coordination of referral for on-going revitalization and repair programs. The Department raised \$450,000 in private donations for an emergency repair program. Code Staff was asked to provide referrals to this program. The

Department's Stabilization program is directly tied to referrals of historic structures by code staff to the Dangerous Structure Determination Board. *Completed*

As a note of the department's pro-active efforts and community education programs, in fiscal 2005, Code Compliance implemented the CLEAN (Comprehensive Lead Enforcement Activity in Neighborhoods) Team and the Public Awareness Program to focus its proactive code enforcement in areas with high concentration of code violations and chronic violators. The top 5 reported code violations were identified and a series of quarterly press conferences and enforcement activities were targeted during each quarter. Included were vacant lots, minimum housing premises, junked vehicles, front yard parking and outside storage violations. In Addition to the press conferences that initiated the target approach, advertising on billboards was purchased and strategically located citywide based on the areas of highest frequency (using GIS to determine) per City Council District. Also, 2 new mascots, the Enforcer and Cody, were designed and costumes were made for staff to appear at various community and school events. A Code education Activity color book was developed to promote code awareness to the young and a slick new brochure for the adults. This comprehensive Code Public Awareness package was recognized with by the American Association of Code Enforcement with a National Award. Utilizing GIS the top 5 target chronic code violations are plotted citywide and the CLEAN Team of 10 CEOs are assigned Council District areas to pro-actively inspect the "hot spots".

A.5 Dangerous Premises Violations (Audit Report Page 11)

Observation: CCD has taken some positive steps to improve its abatement of dangerous premises, but these measures should be expanded.

Recommendation: CCD should take action to resolve dangerous premises complaints (from 2005) that are still pending, and implement procedures to reduce the time required to resolve such violations. Abandoned and dilapidated properties pose serious threats to the citizens of San Antonio while providing havens for criminal activity.

Management Response: Accept

Management Action Plan:

1. Review and make recommendation to amend Chapter 6 Article VIII that will shorten the time allowed to bring a vacant dangerous structure into compliance to include fee assessment for abandoned structures. *Completion date: July 2007*
2. Examine each pending case for 2005 and ensure case closure to the extent possible. *Completion date: March 2007*

A run as of 2/23/07 shows 39 pending from 2005 with the following reasons:

- Three properties have been demolished.
- Six properties are pending demolition. In process of environmental review, utilities disconnections or expiration of due process.
- Six properties have been repaired by owner by order of the D.S.D.B.
- Eight properties are pending in D.S.D.B. with orders to repair the structure. Also under review by Rehab. Programs and Historical Review or litigation.
- Sixteen properties are in the process of D.S.D.B. hearing. Pending voluntary compliance and are being monitored by staff. (Cleaning, securing and reviewing any repairs taking place).

We have been working with Legal to revise the code as it relates to Dangerous Premises and will consider the timetables to shorten the period to bring about closure. We are also considering proposing a fee assessment for structures left un-occupied and abandoned for a period of 6 months.

A.6 CCD Investigator Productivity (Audit Report Page 12)

Observation: CCD should continue its efforts to maximize the capabilities and productivity of its code enforcement field resources.

Recommendation: CCD should modernize its operations to enhance efficiency by performing the following:

1. Replace paper documentation with electronic documentation for all complaints and case files. The electronic files should be accessible by all those involved in the process through the City's network, eliminating the need for transporting paper documents throughout the city.

2. Research the availability of modern software packages with data entry functionality specifically designed for municipal code enforcement. If viable, a new system should be procured and implemented that is able to track all facets of code enforcement including investigations, notices, hearings, abatement, and fines and fees assessed, collected, and due.
3. Assign property research functions that require a constant connection to web-based information to administrative support personnel with hard-wired network connections
4. Utilize the City's existing GIS technology to improve overall efficiency and comprehensive approach to code enforcement

Management Response: Accept

Management Action Plan:

1. Testing with DM, other off- the- shelf software packages will be sought and researched to determine if electronic files can replace current hard copy case files and paper flow. *Completion date: July 2007*
2. Wireless network technology continues to show great advances and the Department will continue to research the new capabilities the network. *Completion date: On-going*
3. While suggesting that Code Division Support Administration could do all the property research, the current limited number of 6 Office Assistants could not support this job task as well as their responsibilities of processing the notices and work orders. Additional personnel would be needed to implement this recommendation and could be considered as a program improvement for the next fiscal year. *Completion date: Budget cycle for 2007-08.*

Between April 5, 2006 and October 17, 2006 a project to implement the Electronic Document Management – Hummingbird (DM) system was initiated with the vacant lot abatement program. DM is an existing system that is maintained by ITSD and is used by other City departments. DM features include Records Management, Contextual Relationships, and Indexing and Searching Capability, all of which could improve the Department's case documentation procedures. The project's goal was to reduce the amount of paper and reduce the paper flow. However, after configuring DM and conducting a pilot test in the field, it was discovered that the network response time to upload all required documents to one vacant lot case took a minimum of 10-15 minutes. Because of the wireless network connectivity, the time to upload the necessary document was too long for the system to be fully implemented department wide. DM, however, did show benefits on the wired network for storing and retrieving of files and forms, such as notices of violations, abatement letters, attaching files and pictures from MS Word and MS PowerPoint and etc. Additional testing and research will be done to confirm. Test concentration would have to be in how well scanned documents are produced, the amount of storage limit if any on scanned items, and again the response time on LAN for retrieving scanned items.

Code Compliance current system was recognized by the American Association of Code Enforcement for its achievement in technology in the field of code enforcement.

Section B - Opportunities for Enhanced CCD Cost Recovery

B.1 CCD Revenue and Cost Recovery Issues (Audit Report Page 13)

Observation: The collections process and underlying information systems have impaired the City's ability to properly record and collect CCD revenue.

Recommendation: CCD should phase out the use of the MARR system in favor of the SAP system as soon as possible. While it is not within the scope of authority for CCD to phase out of the mainframe system, the implementation of SAP as the only system of record will have a direct positive impact on their operations. One example is the ability to track revenues and receivables in addition to expenses, giving them complete ownership of the business process.

CCD should monitor account collections and general collection efforts. Also, they should collaborate with the Finance Department and City Attorney's Office to develop policies and procedures to improve and maximize cost recoveries.

Finally, CCD should actively pursue legislation allowing municipalities to foreclose on properties with large code enforcement liens.

Management Response: Partially Accept

Management Action Plan:

1. HNSD will initiate meetings with Legal and Finance to develop policies and procedures to improve and maximize cost recoveries. *Completion date: August 2007*
2. Proposed legislation to allow foreclosures for unpaid code liens for non-homestead properties will be considered for the 81st Legislation Session. *Completion date: August 2008*

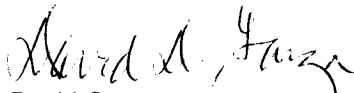
Information below provided by Finance Department:

The issue of utilizing SAP for CCD accounts receivables was evaluated by the ERM project team and consultants during the implementation of SAP. However, because CCD accounts receivables are a lien against real property and SAP is a customer based system, the ERM project team recommended the continued use of the legacy systems (CEARS & MARRS).

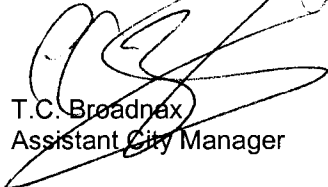
The Finance Department has been working with Information Technology Services Department (ITSD) to improve functionality and documentation of billing and collection efforts for CCD accounts receivables. Eventually, MARRS will be phased-out and payments will be posted in CEARS which will directly link to SAP to record daily CCD revenue. Additional changes include providing for the signature of real estate liens by the Tax Collector instead of the Director of the Health Department. This change has reduced the timeline for the filing of liens significantly. Liens are now filed in the Bexar County Clerks Office approximately forty-five (45) days after the first invoice is mailed, if unpaid. Other changes in procedures include forwarding delinquent CCD accounts which exceed \$5,000 to City Attorney's Office to pursue collection efforts if not already in litigation. Additionally, the Finance Department will continue to work with the City's Delinquent Property Tax Attorney to ensure CCD accounts receivables are included in judgments for delinquent property taxes. The Finance Department has coordinated a March 2007 mailing of delinquent CCD accounts by the City's Delinquent Property Tax Attorney pursuant to the terms and conditions of the current contract.

We are committed to addressing the recommendations in the audit report and the plan of actions presented above.

Sincerely,



David Garza
Director, Housing and Neighborhood Services Department



T.C. Broadnax
Assistant City Manager